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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/627,146	07/27/2000	ROBERT A. MOSS	MOSS-1	1215
1473	7590	02/04/2004	EXAMINER	
FISH & NEAVE 1251 AVENUE OF THE AMERICAS 50TH FLOOR NEW YORK, NY 10020-1105			CHAMBERS, MICHAEL S	
			ART UNIT	PAPER NUMBER
			3711	
			DATE MAILED: 02/04/2004	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/627,146

Applicant(s)

MOSS ET AL.

Examiner

Michael Chambers

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 07 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35, 37-39, 41-44, 46 and 59-63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15, 25-27, 32, 36, 41-44, 46 and 59-63 is/are rejected.
- 7) ☒ Claim(s) 16-24, 28-31, 33-35 and 37-39 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3,6-9,25,32,59,60,62 are rejected under 35 U.S.C. 102(b) as being anticipated by Centafanti (4496156). Centafanti discloses a rigid member (14+16), a support member (7,8,5,6), a first hinge (11), tether (15), and ball mounting device (fig 1).

As to claims 2 and 60: Centafanti discloses a rigid member that rotates substantially in a vertical plane (Fig 1).

As to claim 3: Centafanti discloses a frame in substantially in the same vertical plane (Fig 1).

As to claim 6: Centafanti discloses a frame that comprises the support member (Fig 1).

As to claim 7: Centafanti discloses a horizontal support (Fig 1).

As to claim 8: Centafanti discloses a frame with a vertical and horizontal support and hinge (Fig 1).

As to claim 9: Centafanti discloses a base (Fig 1).

As to claim 25: Centafanti discloses rigid member length that is adjustable (14+16, 2:60-62).

As to claim 32 : Centafanti discloses a hinge that is rotatable (Fig 1).

As to claim 59 : See claim rejection for claim 1.

As to claim 60: Centafanti discloses a member fixed to said hinge and rotatable (Fig 1).

As to claim 62: Centafanti discloses at least one tubular member adapted to rotate around said support member (Fig 1).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Centafanti in view of Official Notice. Official Notice is taken that the use of light weight plastic is well known in the art. It would have been obvious to one of ordinary skill in the art to have employed a lightweight plastic in order to produce the device at an inexpensive cost. The rigid member would inherently be less than the weight of the combination of the ball and mounting assembly.

Claims 10 -12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Centafanti in view of Myers. Myers discloses the use of multiple legs (fig 1). It would have been obvious to one of ordinary skill in the art to have employed the multiple legs with the device in order to provide a more stable and moveable.

As to claim 11: Myers discloses collapsible legs (fig 1-3,2:9-16). It would have been obvious to one of ordinary skill in the art to have employed collapsible legs with the device in order to easily transport the device.

As to claim 12: Myers discloses an adjustable height (fig 1-3,2:22-31). It would have been obvious to one of ordinary skill in the art to have employed an adjustable height with the device in order to easily customize the height for each player.

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Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Centafanti in view Myers and further in view of Official Notice. Official Notice was taken in paper 22 that various equivalent means for adjusting vertical and horizontal positions are well known in the art. It would have been obvious to one of ordinary skill in the art to have employed a telescoping means to more easily adjust the device to each player.

Claims 26-27, 41-44, 46, 61, 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Centafanti

As to claims 26, 27, 61 and 63: No criticality is seen in the material used for the rod. Official Notice was taken in paper 22 that various equivalent materials for rigid rods are well known in the art. It would have been obvious to one of ordinary skill in the art to have employed any one of several different equivalent rod materials based on cost and manufacturing methods.

As to claims 41, 42 and 43: No criticality is seen in the tether used. Official Notice was taken in paper 22 that various equivalent materials and adjustment means are well known in the art. It would have been obvious to one of ordinary skill in the art to have employed any one of several different equivalent tethers based on manufacturing costs and player preferences.

Allowable Subject Matter

Claims 16-24, 28-35 and 37-39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

On further review of the prior art, it was determined that the claim language does not avoid the cited art. As noted in the previous reasons for allowance, the hinged rigid member with tethered ball appears novel. If this limitation is included in the base claims, the application should be allowable.

Response to Arguments

Applicant's arguments with respect to claims 1-35, 59-63 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Chambers whose telephone number is 703-306-5516. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 703-308-1513. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

3893669*4496156*

Michael Chambers
Examiner
Art Unit 3711

January 24, 2004


GREGORY VIDOVICH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700